IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

Bail Appl..No. 5789 of 2007()

CMP.3217/2007 of J.M.F.C.-IV,KOZHIKODE

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CRIME NO. 474/2004 IN CBCID/SIII/04 - KOZHIKODE

PETITIONER/ACCUSED NO.3

M.JAYAPRAKASH, AGED 56 YEARS,
S/O.BHASKARA MENON, 'DEVAKI VILLA', PARLIKKADU,
VADAKKANCHERRRY, THRISSUR DISTRICT.

BY ADV. SRI.O.V.MANIPRASAD

RESPONDENTS: COMPLAINANT

THE STATE OF KERALA,
(THE DEPUTY SUPERINTENDENT OF POLICE, CBCID
(SG III), KOZHIKODE- CRIME NO.474/04) REPRESENTED
BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY D.G.P. ADV. SRI.P.G.THAMPI

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 01/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No. 5789 of 2007

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Dated this the 1st day of October, 2007

ORDER

Application for regular bail. The petitioner is the 3rd accused. Altogether there are 4 accused persons. The petitioner faces allegations for offences punishable under Sections 120(B),468 and 471 IPC read with Section 12(1)(b) of the Passport Act. The crux of the allegations against the accused persons, four in number, is that they had entered into a criminal conspiracy to transfer funds to the tune of Rs.620 crores which came in as 'hawala' money. The 2nd accused opened an account in a fake name. To facilitate such opening of account he had obtained a passport in such fake name. The 1st accused allegedly introduced the 2nd accused to the bank in that fake name. Accounts were opened in various branches of the Lord Krishna Bank. Through such accounts large amounts of money were transferred to various persons. The petitioner- 3rd accused as also the 4th accused allegedly received large amounts from the 2nd accused through such fraudulent account maintained by him. The petitioner was arrested on 24.08.07. He continues in custody from that date in this crime.

2. The learned counsel for the petitioner submits that the

petitioner is absolutely innocent. Accused 1 and 4 have already been granted bail. The petitioner has remained in custody for a long period of time as per order of detention under the COFEPOSA Act. It is while the petitioner was continuing in custody under the COFEPOSA Act that the petitioner was shown as arrested on 25.8.07 and production of warrant was issued to procure his presence. The petitioner has remained in custody for a period of more than one year by detention order under the COFEPOSA Act. Even earlier the investigation/inquiry into the present allegation had started. There is absolutely no justification in continuing the detention of the petitioner. The order of detention under the COFEPOSA Act has already been set aside by a Division Bench of this Court by order dated 18.7.07, submits the learned counsel for the petitioner.

3, Notice was given. The learned D.G.P has entered appearance for the State. The learned D.G.P does not raise any objection against the release of the petitioner on bail. Appropriate and strict conditions may be imposed to ensure that the petitioner shall be available in India and shall be available for questioning by the Investigator, submits the learned D.G.P**.**

4. In these circumstances, I am satisfied that the petitioner can be released on bail now. In the absence of the opposition, it is not necessary to advert to the facts in any greater detail. I take note of

the fact that the inquiry/ investigation had commenced much earlier and that the petitioner has been detained for fairly a long period of time under the COFEPOSA Act before arrest was effected in this crime. Appropriate conditions can of course be imposed.

3. In the result, this petition is allowed. The petitioner shall be released on bail on the following terms and conditions:

i) The petitioner shall execute a bond for Rs.5,00,000/- (Rupees five lakhs only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

ii) The petitioner shall surrender his passport before the learned Magistrate.

iii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 12 noon on all Mondays and Fridays, until further orders.

iv) The petitioner shall not leave the sessions division of Thrissur until further orders without the prior permission of the learned Magistrate except for complying with the condition No.iii above.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE